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Evaluation of Tax Debt Management for Bankrupt Taxpayers in Indonesia

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ABSTRACT

Purpose: This study aims to evaluate tax debt management for bankrupt taxpayers in Indonesia, using insights from successful practices.

Method: A literature review approach was used by synthesizing relevant Indonesian legal frameworks, including the Tax Collection Law, General Tax Provisions and Procedures Law, Bankruptcy Law, and Minister of Finance Regulations. The study also incorporates previous research to assess the effectiveness of current practices.

Results: Persuasive communication is considered nonessential in managing tax debts during bankruptcy. The Directorate General of Taxes follows standardized procedures before initiating legal enforcement. These include asset confiscation, travel restrictions (exit bans), and in extreme cases, detention. Collection efforts are guided by assessments of economic feasibility and practicality, ensuring that enforcement actions are cost-effective and legally justified.

Conclusion: Tax debt management in bankruptcy cases in Indonesia prioritizes procedural certainty and law enforcement over negotiation, reflecting a structured and rule-based approach by the tax authority.

Limitations: This study does not compare Indonesia's approach with tax debt management systems in other countries. A comparative analysis could offer valuable insights to improve Indonesia's framework and address persistent collection challenges.

Contribution: This study enriches the literature on how the Directorate General of Taxes manages bankrupt taxpayers to pay their debts.

Keywords: *Bankrupt Taxpayers, Directorate General of Taxes, Tax Debt, Tax Debt Management*

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1. Introduction

The increasing number of taxpayers indicating going bankrupt is proven by the increase in taxpayers who have applied for the Postponement of Debt Payment Obligations (PKPU) and bankruptcy in the last six years (2018–2023), as presented in Figure 1. The increase in taxpayers filing for or applying for

PKPU and bankruptcy peaked in 2021 and reached its lowest point in 2018. This could be a way for taxpayers to bankrupt themselves, so that their assets cannot be confiscated by the Directorate General of Taxes, as Suryana (2022) states. YUSUF and ISQIYARTA (2019) stated that there have been various tax avoidance practices as motivations for corporate bankruptcy.

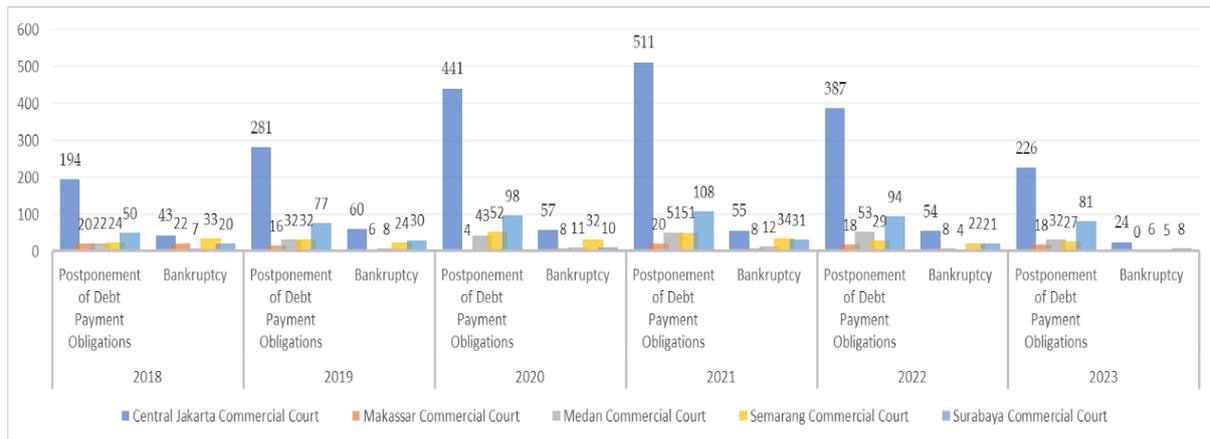


Figure 1 Number of Taxpayers in Postponement of Debt Payment Obligations and Bankruptcy in the Last Six Years (2018—2023)

There should be special concern for the Directorate General of Taxes (DGT) in managing tax debt for bankrupt taxpayers. Late information regarding taxpayers indicated that the Postponement of Debt Payment Obligations and bankruptcy will cause the DGT to be unable to perform collection actions, such as confiscating the assets of bankrupt taxpayers and increasing the potential for uncollectible tax debts. Tax debt is often ignored in bankruptcy cases because of other bills (Tiranda, 2020). Hartini (2018) states that, in bankruptcy cases, the priority for payment of bills is billed for workers' wages, not tax debts. These problems are caused by disharmony in various laws in Indonesia, which affect the tax debts paid by the curator (Damayanti & Abdi, 2020). Tax debts have privileges based on the General Tax Provisions and Procedure Law. Creditors' bills have privileges based on Bankruptcy and Postponement of Debt Payment Obligations Law. Worker wages have privileges based on Labor Law. Considering the importance of tax debt management in maximizing collectable tax debts, an evaluation of tax debt management is necessary.

A few researchers have evaluated tax debt collection using a framework to overcome its issues in tax debt collection. Murtezaj (2024) evaluates the current organizational structure of the Tax Debt Collection in Kosovo using the Strategic Reform Implementation Document, and reveals that a clear duty distribution will result in well-defined responsibilities by tax collection officers and improve tax debt collection efficiency. This study uses bankrupt taxpayers in Indonesia as the object and successful tax debt management as the framework.

Chooi (2023) evaluates tax debt collection in the Asia Pacific using The Tax Administration Diagnostic Assessment Tool (TADAT) and the Organization for Economic Cooperation and Development (OECD) and reveals that the best practices for handling tax debt and revenue agencies are utilizing technological advancements and behavioral insights to boost tax payment compliance and enhance revenue performance. The TADAT is a widely used tool created collaboratively by multiple international agencies to assist revenue bodies in evaluating their current capabilities and identifying possibilities for capacity enhancement (Chooi, 2023). The OECD lays four strategic principles corresponding to the four primary stages of tax collection, and the general idea of having a high-level tax debt management strategy. This study did not include all the taxpayers. This study consists of only bankrupt taxpayers in Indonesia and uses only the OECD as a framework.

Elmirzaev and Kurbankulova (2016) evaluate tax arrears' profiles, compositions, and origins, and propose possible solutions to avoid and prevent overdue indebtedness in Uzbekistan. This study consists only of bankrupt taxpayers in Indonesia and uses the OECD as a framework. A few researchers have also evaluated the position of tax debts among other creditors to determine why they are not paid. Generally, bankruptcy tax debts are privileged over other creditors, including secured creditors such as separated, preferential, and concurrent creditors (Sunarmi, Sukarja, & Lubis, 2021). Tiranda (2020) states that, in a bankruptcy case, the curator should pay tax debts before paying bankruptcy creditors to satisfy the government's performance financing requirements. Previous studies have focused on the position of tax debts among other creditors, while few studies in Indonesia have evaluated tax debt using successful tax debt management. Therefore, this study intends to evaluate tax debt management for bankrupt taxpayers in Indonesia based on successful tax debt management and determine how successful tax debt management has been implemented in Indonesia.

2. Literature review

2.1 Directorate General of Taxes (DGT)

In Indonesia, based on Article 47 (Keuangan, 2021), the DGT administers the formulation and implementation of policies in the tax sector according to the provisions of statutory regulations. One of the regulations implemented by DGT is.

2.2 Tax Collection

Uncollectible tax debts include uneconomic debt to pursue recovery or debt not legally collected due to insolvency or legislation barring (Chooi, 2023). Since paying off tax debts is a regular requirement for taxpayers to complete their legal tax and contribution obligations, most taxpayers should make their payments effectively and within legally stipulated timeframes (Murtezaj, 2024). However, a subset of taxpayers disregards their legal obligations, resulting in accruing tax debt to the state (Murtezaj, 2024). According to Article 1 Number 9 Tax Collection with Distress Warrant Law, tax collection is a series of actions for the taxbearer to pay off tax debts and collection costs with reprimands or warnings, immediate and total tax collection, notify the Distress Warrant, propose a travel ban, confiscation, hostage taking, and sell confiscated goods.

2.3 Tax Bailiff

Tax Bailiff is tasked with collecting tax revenues in compliance with the implemented tax debt collection activities against taxpayers who owe arrears Permatasari (2022). Based on Article 1 Number 6 of the Tax Collection with Distress Warrant Law, the tax bailiff executes tax collection actions, including immediate and total tax collection, notification of distress warrants, confiscation, and hostage-taking.

2.4 Bankruptcy

A failing business can file for bankruptcy to either reorganize while being shielded from its creditors or to shut down by selling its assets to pay off all or some of its outstanding debt (DePamphilis, 2022). According to Riesenfeld (2024), bankruptcy is the legal status of a debtor who is incapable of repaying their obligation by a court. Although these terms are occasionally used interchangeably to refer to insolvency, they have different legal meanings (RiesenfeldRiesenfeld (2024). Most legal systems define insolvency as an inability to pay debt (RiesenfeldRiesenfeld (2024). On the other hand, bankruptcy is the outcome of a court decision stating that either the debtor or creditors have filed a petition against him Riesenfeld (2024). Based on Article 2, paragraph (1) (Riesenfeld, 2024), a debtor with two or more creditors who do not pay in full at least one due and collectable debt is declared bankrupt by a court decision, either at his own request or at the request of one or more creditors.

2.5 Tax Bearer in Bankruptcy Case

According to Article 1 Number 3 Tax Collection with Distress Warrant Law, taxbearers are the individual or entity responsible for paying taxes, including representatives who exercise rights and fulfill taxpayer obligations by regulatory provisions and tax legislation. Based on Article 32, paragraph (1), letter c General Tax Provisions Law, taxpayers are represented as entities declared bankrupt by the

curator when carrying out rights and obligations under the regulatory provisions of taxation legislation. Based on Article 1 Number 5, the curator is the Property and Heritage Agency or an individual appointed by the court to manage and dispose of the bankruptcy debtor's assets under the supervision of a supervising judge.

2.6 Successful Tax Debt Management

Together with the general idea of a high-level plan for managing tax debt, the OECD outlines four strategic principles that correspond to the four primary stages of tax collection (OECD/OECD (2019):

1. Engagement with taxpayers before the due date
This concept examines taxpayer interactions before a deadline. It considers how tax administrations might minimize the amount of debt accrued by interacting with taxpayers more personally and using broader communication.
2. Maximising collection after the due date but before the use of enforcement powers
This concept examines the interactions of tax administrations with taxpayers following the emergence of tax debt before the application of enforcement measures. The goal is to maximize debt repayment through voluntary means as soon as feasible, including the establishment of payment plans when appropriate.
3. The effective and timely use of enforcement powers
This concept discusses the strategy for effectively using enforcement instruments to collect tax debts, the process for choosing such tools, and tracking and assessing their use.
4. Dealing with Debt which is not Likely to be Recovered, recognizes debt that is not economical to recover as well as write-off policy. This concept addresses the determination of whether a debt may be recovered and documented, and whether the monitoring of debts is deemed unrecoverable in the enforcement process.

3. Methodology

This study evaluates the tax debt management of bankrupt taxpayers. This study depended on a literature review and earlier studies by other researchers, rather than on direct primary data collection. The foundation of this research design was the collection of data from a variety of literary sources, including Tax Collection Law with Distress Warrant, General Tax Provisions and Procedures Law, Bankruptcy and Postponement of Debt Payment Obligations Law, Minister of Finance Regulation, previous research, and other trustworthy sources, that were pertinent to the research issue. This study examines how the DGT manages bankrupt taxpayers' debt and evaluates the results based on four main tax collection phases of successful tax debt management by the OECD. This study significantly advances our knowledge of tax debt management for bankrupt taxpayers by collecting, analyzing, and synthesizing data from multiple literature sources.

4. Results and discussions

This study uses four main tax collection phases launched by successful tax debt management (OECD, 2019) to assess the tax debt management of bankrupt taxpayers in Indonesia. The discussion is grouped based on four main tax collection phases to determine the extent to which DG has implemented these main phases:

4.1 Engage with Taxpayers before The Due Date

Tax debt management for bankrupt taxpayers does not have regulations that direct DGT to engage with bankrupt taxpayers. Based on Article 2 paragraph (1) of the Tax Collection with Distress Warrant Law, the DGT can issue letters necessary to implement tax collection, including a notice letter to taxpayers to pay off their tax debt. This arrangement applies to collecting taxes from all the taxpayers. The notice letter must be issued 30 days before tax debts are repaid 30 days after the tax collection base is issued. The 30-day period due date can be shortened if the DGT issues an Immediate and Total Tax Collection Order and Distress Warrant. The regulation of shortened period exists because in bankruptcy cases, the Bankruptcy and Postponement of Debt Payment Obligations Law allows the curator to confiscate bankrupt taxpayers' assets.

Although the DGT can issue notice letters to engage bankrupt taxpayers, there is no need to engage with taxpayers in bankruptcy cases. Once there are signs of bankruptcy, the DGT must issue an Immediate and Total Tax Collection Order and Distress Warrant. This helps the DGT confiscate bankrupt taxpayers' assets before the curator confiscates them. After taxpayers go bankrupt, the DGT cannot confiscate the taxpayer's assets. At this stage, the DGT must obtain immediate information regarding signs of bankruptcy. According to Elmirzaev and Kurbankulova (2016), the Tax Authority should optimize its cooperation with other authorities to effectively collect tax debt. DGT can create a memorandum of understanding with a commercial court.

4.2 Maximising Collection before Enforcement Measures are Taken

The steps taken before the enforcement of bankrupt taxpayers were standardized. Based on Article 10, paragraph (2), if the assets of the taxpayer declared bankruptcy are insufficient to pay off the tax debt, the tax collection action is taken against the taxbearer as intended in Article 9, paragraph (1). In bankruptcy cases, the first action taken by the DGT is to assess the taxpayer's assets to determine whether the taxpayer's assets are sufficient to pay their tax debts. According to Chooi (2023), in this phase, Tax Authorities must identify taxpayers who cannot pay their debt. After that, the DGT decides whether a collection action can be taken against the tax-bearer (directors, commissioners, and shareholders). This is in line with Asmuni et al. (2019), who state that the board of directors must bear responsibility for the Regional Limited Liability Company's bankruptcy due to their carelessness and errors. In this instance, this responsibility extends jointly and severally overall debts not paid to the bankrupt company's assets, unless the directors can establish an exemption from liability.

At this stage, the tax bailiff must be supported with data related to the taxpayer's and taxbearer's assets and be able to trace assets independently. Therefore, if a collection action must be taken against the taxbearer, it follows the regulations. Based on Permatasari (2022) study, to efficiently carry out their duties, tax bailiffs require a few technical skills in administrative and tax debt collection activities, legal elements, data retrieval or processing, strategy and risk reduction, and effective communication.

4.3 The Effective Use of Enforcement Tools

The Directorate General of Taxation uses enforcement tools to apply for penalties and confiscate assets. A series of tax collection actions, as referred to in Article 4 paragraph (4) MFR-61 of 2023, consists of issuance of a warning letter, issuance of an immediate and total tax collection order, issuance and notification of distress warrants, implementation of confiscation, sale of confiscated goods, proposing travel bans, and implementing hostage-taking. In the bankruptcy case, after the DGT issues and notifies the Distress Warrant, the DGT can take all of these collection actions.

According to Chooi (2023), tax authorities must use enforcement power effectively and in a timely manner. At this stage, the tax collection to the tax bearer should be regulated in more detail, such as confiscation, travel ban, and hostage-taking. For example, if asset tracing reveals that the taxbearer has many current assets in bank accounts, it would be best for the DGT to confiscate the taxbearer's bank accounts. If there is information that the taxbearer often goes abroad, it is best to restrict the taxbearer from traveling abroad by a travel ban decision.

4.4 Dealing with Debt that is not likely to be Recovered

Assessments of whether a bankrupt taxpayer's debt is uneconomical to pursue are made based on guidance covering a range of factors. Uncollectible bankruptcy taxpayer debt is recorded in state financial statements as tax receivables. These tax receivables can be written as intended in Article 1, paragraph (3) letter a, for corporate taxpayers, are tax receivables that can no longer be collected because the taxpayer is dissolved, liquidated, or bankrupt, and the tax bearer cannot be found. Tax receivables that have expired, as referred to in Article 1, paragraph (2), are written off from the Ministry of Finance's Financial Report based on the progress report on tax receivables at the Directorate General of Taxes. The Indonesian Audit Board has recommended the Directorate General of Taxes, in the form of an administrative warning, that Tax Officials follow all applicable laws, regulations, and procedures for the determined collection actions regarding tax receivables that have expired collection, so that the expiration of collection becomes an Official Liability (Subagyo & Saleh, 2023). At this stage, it is

important for the Directorate General of Taxes to immediately write off uncollectible bankruptcy taxpayer debts that are uneconomic and have expired.

5. Conclusion

Debt management for bankruptcy taxpayers does not require a persuasive approach. The steps taken by the DGT before the enforcement of bankrupt taxpayers were standardized. The DGT uses a set of law enforcement tools, including confiscation, travel bans, and hostage-taking, to make bankrupt taxpayers pay off their tax debts. An assessment of whether a bankrupt taxpayer's debt is uneconomical to collect is conducted based on guidelines that include various factors.

The following are the recommendations given to the DGT to improve tax debt management:

1. Engage with Taxpayers before the Due Date: The DGT must quickly obtain information about signs of bankruptcy. It can create a memorandum of understanding with the Commercial Court to obtain this information.
2. Maximizing Collection before Enforcement Measures: Tax bailiffs must be equipped with complete data or tools to profile and trace taxpayers' assets independently. The data included bankruptcy documents, bank accounts, land certificates, and vehicle certificates.
3. The Effective Use of Enforcement Tools: To use enforcement powers effectively and timely, the Tax Collection with Distress Warrant Law needs to detail in what cases the tax collection to the taxbearer, such as confiscation, travel ban, and hostage-taking, is enacted.
4. Dealing with Debt which is not Likely to be Recovered: Debts of bankrupt taxpayers that have expired must be written off immediately.

5.1 Limitation/s and study forward

This study has not conducted a comparative analysis of tax debt management for bankrupt taxpayers in Indonesia against similar practices in other countries. Such a comparison would elucidate how different jurisdictions address tax debt management for bankrupt taxpayers, and could offer valuable insights for overcoming collection challenges specific to Indonesia. By examining common practices in other countries, this study provides recommendations tailored to the Indonesian context to improve the effectiveness of tax debt collection from bankrupt taxpayers.

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